

EXHIBIT 48

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)

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4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - CRIMINAL DIVISION

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7 THE PEOPLE OF THE STATE)
 OF ILLINOIS,)
) Criminal
8 Plaintiff,)
) No. 00 CR 20601-01
9 vs.)
)
10 XAVIER WALKER,)
)
11 Defendant.)

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13 REPORT OF PROCEEDINGS

14 REPORT OF PROCEEDINGS had at the hearing in
15 the above-entitled cause before the Honorable ALFREDO
16 MALDONADO, Judge of said court, on the 17th day of July,
17 2018.

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1 APPEARANCES:

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HONORABLE KIMBERLY M. FOXX,
State's Attorney of Cook County, by:

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MS. CAROL ROGALA and
MR. MARK ROTERT,
Assistant State's Attorneys,
appeared on behalf of the People;

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HONORABLE AMY P. CAMPANELLI,
Public Defender of Cook County, by:

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MR. HAROLD WINSTON,
MR. ROBERT DRIZIN and
MS. JULIE KOEHLER,
Assistant Public Defenders,
appeared on behalf of the Defendant.

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L. B. STONE, CSR
Official Court Reporter
2650 S. California Ave.
Chicago, Illinois 60608

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1 THE CLERK: Xavier Walker.

2 THE COURT: All right. Mr. Xavier Walker is
3 approaching the bench. He is in the custody of the
4 Illinois Department of Corrections.

5 Good morning.

6 THE DEFENDANT: Good morning.

7 THE COURT: Counsels, please state your names for
8 the record.

9 MR. WINSTON: Harold Winston, assistant public
10 defender here for Xavier Walker.

11 MR. DRIZIN: Robert Drizin, D-r-i-z-i-n, assistant
12 public defender, for Mr. Walker.

13 MS. ROGALA: Goof morning, Judge. State's Attorney
14 Carol Rogala on behalf of the People.

15 MR. ROTERT: Good morning, your Honor. Mark Rotert,
16 R-o-t-e-r-t, Assistant State's Attorney, on behalf of the
17 People.

18 THE COURT: All right. Counsel?

19 MS. ROGALA: Judge, this matter comes before you on
20 a petition for postconviction relief. In August of 2007,
21 Judge Salone, who was the trial Judge in this case,
22 docketed the instant petition and appointed counsel, the
23 Public Defender's Office. Our office was asked to
24 conduct a review of the case, which Mr. Rotert was part

1 of. And based on all of our investigation into the case,
2 Judge, with allegations of ineffective assistance of
3 counsel and the failure of counsel to present an alibi
4 defense, based on our investigation, at this time, we
5 would withdraw any opposition to Mr. Walker's petition
6 for postconviction relief. We believe he has made a
7 substantial showing that there was a Constitutional
8 violation in his trial, and we would be in agreement that
9 he is entitled to a new trial.

10 MR. WINSTON: Yes, Judge, we've agreed that it's an
11 agreed order that the State has drawn up vacating the
12 conviction and the sentence and granting him a new trial,
13 remanding him to the Cook County Department of
14 Corrections, and we would ask that you sign the order
15 which we'd agreed to.

16 MS. ROGALA: Judge, the order does contain a space
17 for the next court date, which obviously we haven't
18 filled in yet, so I can present that order once we
19 completed it, and then, Judge, I will notify the Illinois
20 Department of Corrections that this sentence entered on
21 January 11, 2005, of 35 years in the Illinois Department
22 of Corrections will be vacated upon your signing of the
23 order, and I will notify them of that.

24 THE COURT: And the State's position is based on

1 their review. Is this the Conviction Integrity Unit?

2 MR. ROTERT: Your Honor, the Conviction Integrity
3 Unit did a review. Mr. Winston asked us to take a look
4 at it, and our conclusion was limited to the issues
5 raised in the postconviction petition --

6 THE COURT: Ineffective assistant of counsel.

7 MR. ROTERT: Ineffective assistant of counsel claim.

8 THE COURT: All right. And that's solely the
9 postconviction petition, the supplemental one I saw it in
10 the file.

11 MR. WINSTON: That's the main issue, I mean I added
12 two addendums, but that's the key issue.

13 THE COURT: But that is the issue, and you're in
14 agreement with the -- just so our record is clear.

15 MR. ROTERT: Your Honor, the record should reflect
16 that the State's in agreement that the 6th Amendment
17 competence of trial counsel issue was such that we
18 withdrew our objection to that petition.

19 THE COURT: And that sole basis would be sufficient
20 to grant relief?

21 MR. ROTERT: That's our view, yes, your Honor.

22 THE COURT: Well, that and I did review the
23 supplemental petition the defense has filed. On that
24 basis, this is an agreed order, but there is no objection

1 to the one basis?

2 MS. ROGALA: Correct.

3 THE COURT: As to ineffective assistance of counsel
4 claim, I'm going to grant the relief that's requested. I
5 am going to grant the postconviction petition on that
6 basis and that basis only. Accordingly, Mr. Walker is
7 going to have his conviction vacated, and it will be a
8 new trial, we're back to square one.

9 So before we move forward, I need to set
10 bond.

11 MS. ROGALA: Yes, Judge.

12 MR. WINSTON: Judge, if I may proceed.

13 THE COURT: Sure.

14 MR. WINSTON: Judge, we think there are a number of
15 reasons why the bond should be set as low as possible
16 even understanding it is a murder case.

17 First of all, as you know from reading the
18 supplementals, there's considerable evidence of actual
19 innocence here, although we (Inaudible) raised
20 ineffective assistance, the witnesses were available to
21 the attorney and the attorney was informed of it.

22 There's witness Simeon Dorsey, who gave an
23 affidavit and who Mr. Rotert and I interviewed at his
24 home, and he stands by his position, he was with Xavier

1 all night. Xavier was never involved in any murder.

2 There was a person who is now deceased,
3 Deon Baylock, that gave a similar affidavit earlier when
4 Xavier filed his petition.

5 In addition, there is one of his sisters,
6 Shunralyn Walker, S-h-u-n-r-a-l-y-n, who gave an
7 affidavit and who was also interviewed by Mr. Rotert and
8 myself stating that she did not loan her car to Xavier
9 that night until 1:45 a.m., and the shooting occurred at
10 1:10 a.m.

11 So there's -- and then the only evidence
12 against Xavier at trial really was his video confession
13 of a 19 year old, who had been held for 20 hours. And we
14 have an affidavit, and Mr. Rotert and I had a phone
15 conversation with a man named Antwain Waddy, W-a-d-d-y,
16 and Mr. Waddy was present in the police station in the
17 next room. He heard signs of what might be a beating,
18 and Xavier yelling that he was innocent, that he wasn't
19 with Jovany (phonetic).

20 And also we have an affidavit from Deborah
21 Bedson, the first defense attorney who interviewed him
22 the very next day.

23 And further we have obtained through the
24 persistence of my investigator Alisha Stewart (phonetic)

1 photographs taken in bond court by our office by a man
2 name Michael Bratton, who is now with the Georgia Police
3 Department. I furnished copies to the State, and it
4 shows injuries. And again Mr. Bratton, we would call as
5 a witness. So that's one thing.

6 The second thing is Xavier has been given
7 responsible positions in the prisons where he's most
8 recently been at. He's currently at Lawrence's
9 Correction Center. He works in the dietary dock group
10 that unloads food for the prison, and he's done that for
11 almost a year. Before that, he was at Menard, and he
12 worked in the officer kitchen making food for officers.

13 In addition, and I furnished this to the
14 State, I'm tendering copies of certificates Xavier has
15 earned in prison. Certificate, the first one from 2014
16 is a certificate in paralegal studies with distinction
17 from a Black Stone Career Institute.

18 The second one is that he completed a
19 course in Menard in 2015, the Impact of Crimes on
20 Victims.

21 The third one is a certificate about a
22 72-hour short course in Christianity at Lawrence, and
23 that was in 2017.

24 The next one is also from Lawrence, a

1 certificate of recognition of participation in something
2 called Freedom God's Way from Prison to the Promise Land,
3 and that was in June of 2017.

4 There was also a certificate from Lawrence
5 from January of 2017 for successfully completing an anger
6 management program.

7 And there's one other certificate as well.

8 His parents live in Chicago. He's
9 38 years old. His parents have been good about coming to
10 court. The father has heart disease problem and COPD
11 problem, which is a lung disease.

12 And, Judge, for all these reasons, we
13 believe he's deserving of a very low bond, if not, an I
14 bond with EMI, and something like a 5,000 D bond. And we
15 think the evidence supports that.

16 THE COURT: State --

17 MR. WINSTON: I also would tender, which I've given
18 the State, a copy of the order allowing the photographs
19 be taken from Bond Court by our office. Unfortunately
20 the trial lawyer who did the case never got the
21 photographs, never got the order.

22 MS. ROGALA: Judge, this case arose out of an
23 incident that happened May 13 of 2000 approximately 1:00
24 o'clock in the morning in the 4700 block of West Ohio in

1 Chicago, Cook County, Illinois. Marek, M-a-r-e-k,
2 Majdak, M-a-j-d-a-k, was driving in that area essentially
3 made a wrong turn, he was new to Chicago having recently
4 came from Poland. He was stopped, and the petitioner and
5 a codefendant Travony Long (phonetic) approached his car,
6 and Mr. Long entered the car, there was an altercation
7 between Mr. Long and Mr. Majdak. Mr. Majdak was then
8 shot twice and died as a result of his wounds.
9 Mr. Walker -- the petitioner -- Mr. Walker, I just loss
10 my technology Judge, I apologize.

11 THE COURT: Take your time.

12 (Whereupon there was a short pause in
13 the proceedings).

14 MS. ROGALA: I apologize, Judge. This is why
15 technology and I are not friends.

16 All right. Judge, on May 25, the police
17 received information that Mr. Long and Mr. Walker were
18 involved in the shooting that led to Mr. Majdak's death.
19 They interviewed other witnesses, and petitioner was
20 brought into custody where he made the videotaped
21 statement that Mr. Winston mentioned to you.

22 Judge, we believe that Mr. Walker's
23 actions both before, during, and after the shooting in
24 this case makes him accountable for this case, and we

1 believe that the proof here is evident and the
2 presumption great that he is accountable for the murder
3 of Majdak -- Mr. Majdak.

4 The original bond set in this case, Judge,
5 back in 2000 was \$850,000 D. Many of the certificates
6 that counsel has offered to you while relevant to
7 sentence -- possibly to sentencing, don't go to his
8 ability to appear in court, which is the purpose of
9 setting bond.

10 We believe, Judge, that based on all of
11 the circumstances in this case, that a bond far in excess
12 of \$5,000 D is appropriate. This is a murder case, and
13 Mr. Walker's presence is required on each and every court
14 date.

15 So, Judge, we would be asking for a
16 significant bond commensurate with the crime of which he
17 stands charged.

18 THE COURT: And the sentencing range is -- this was
19 a murder with a firearm, right?

20 MS. ROGALA: It is a murder with a firearm, and
21 truth in sentencing does apply.

22 THE COURT: Does apply here. This happened in 2000.

23 MS. ROGALA: It happened in 2000.

24 MS. WINSTON: 2000. He got 35 years, originally the

1 minimum sentence for both was 20, and then the 15 because
2 Travony Long had a firearm.

3 Again our position simply Xavier wasn't
4 there, and I forgot to mention he did earn a GED in
5 prison, which is one of the exhibits I've tendered.

6 THE COURT: I understand. All right. So I did
7 grant -- I granted your request based on the State's
8 investigation. I did not object as to the 6th Amendment,
9 ineffective assistance of counsel claim. Mr. Walker is
10 back to square one.

11 I've listened to the proffer made by the
12 defense and the State's position as well.

13 I know that your request is 5,000 D or I
14 bond?

15 MS. WINSTON: Yes, an I bond, of course.

16 THE COURT: I know the bond was 800 --

17 MS. ROGALA: Eight hundred and fifty.

18 THE COURT: Eight hundred fifty thousand D back in
19 2000, that was a bond that would have been ordinary under
20 that bond rubric. I don't find that the defense's
21 request is sufficient to have -- the purposes of bond,
22 which is one, to insure Mr. Walker's presence in court,
23 but also to safeguard the public's -- to safeguard the
24 public here.

1 The problem is 850,000 D is really the
2 equivalent to the no bail hold. And as far as what
3 Illinois is moving towards, it having some sort of
4 realistic or actual honest bonds.

5 At this point what I'm going to do is I'm
6 going to set no bond because \$850,000 is a kin to no
7 bond. You could always revisit. I have no issue with
8 request to revisit bond. But under the circumstances, I
9 don't find that your request, the defense's request is a
10 sufficient pretrial measure. So it will be no bail.

11 MS. WINSTON: Thank you, your Honor.

12 THE COURT: All right. Like I said I will entertain
13 a request for bond and especially in a no bond situation.
14 All right. So.

15 MS. WINSTON: Can I suggest August 15 as our next
16 court date?

17 THE COURT: August 15?

18 MS. ROGALA: Miss Koehler, is that date convenient
19 to you?

20 MS. KOEHLER: I'm on trial on that date, but I
21 discussed this with Mr. Winston and he's able to come in
22 that day. I think it's just for me to get discovery.

23 MS. ROGALA: And, Judge, I will notify Miss Ravin of
24 that date.

1 THE COURT: All right. August 15, status. Is that
2 by agreement?

3 MS. KOEHLER: Yes.

4 MS. WINSTON: Yes.

5 THE COURT: All right. August 15 for status on
6 discovery. All right.

7 And so Mr. Walker is going to be remanded
8 to the Cook County Department of Corrections.

9 Anything else?

10 MS. ROGALA: Judge, I'm just filling in the date in
11 the order for your signature.

12 THE COURT: Here's your order back.

13 MS. WINSTON: Thank you, Judge.

14 THE COURT: All right. August 15.

15 (WHICH WERE ALL THE PROCEEDINGS HAD
16 AT THE HEARING OF THE ABOVE-ENTITLED
17 CAUSE)

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IN THE CIRCUIT COURT OF THE COOK JUDICIAL CIRCUIT

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COOK COUNTY, ILLINOIS

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I, LINDA B. STONE, an Official Court

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Reporter for the Circuit Court of Cook County, County

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Department-Criminal Division, do hereby certify that I

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reported in shorthand the report of the proceedings had

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in the above-entitled cause; that I thereafter caused the

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foregoing to be transcribed into computation, which I

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hereby certify to be a true and accurate transcript of

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the proceedings had before the Honorable ALFREDO

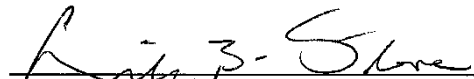
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MALDONADO, Judge of said court.

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LINDA B. STONE

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Official Court Reporter

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Dated this 18th

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of September, 2018.